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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2013-0045]

Reports, Forms and Record Keeping Requirements,

Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed extension, without change, of a currently approved collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, the agency must receive approval from the Office of Management and Budget ("OMB"). Under procedures established by the Paperwork Reduction Act of 1995 (44 U.S.C. § 3501 et seq.), before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections. In compliance with the Paperwork Reduction Act of 1995, this notice describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be submitted on or before **[INSERT DATE = 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- Mail: Docket Management Facility, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- Hand Delivery or Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, between 9 am and 5 pm Eastern Time, Monday through Friday, except Federal holidays.
- Fax: (202) 493-2251.

Regardless of how you submit your comments, please be sure to mention the docket number of this document and cite OMB Clearance No. 2127-0609, “Criminal Penalty Safe Harbor Provision.”

You may call the Docket at 202-366-9322.

Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act discussion below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477-78).

FOR FURTHER INFORMATION CONTACT: For questions please contact Mr. John Piazza in the Office of the Chief Counsel at the National Highway Traffic Safety Administration, telephone (202) 366-9511. Please identify the relevant collection of information by referring to OMB Clearance Number 2127-0609 “Criminal Penalty Safe Harbor Provision.”

SUPPLEMENTARY INFORMATION:

Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the Federal Register providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

- i) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
 - ii) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
 - iii) how to enhance the quality, utility, and clarity of the information to be collected;
- and
- iv) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed extension, without change, of a currently approved collection of information:

Criminal Penalty Safe Harbor Provision

Type of Request – Extension, without change, of a currently approved collection.

OMB Clearance Number -- 2127-0609.

Form Number -- This collection of information uses no standard forms.

Requested Expiration Date of Approval -- Three (3) years from the date of approval of the collection.

Summary of the Collection of Information -- Each person seeking safe harbor protection from criminal penalties under 49 U.S.C. § 30170 related to an improper report or failure to report is required to submit the following information to NHTSA: (1) a signed and dated document that identifies (a) each previous improper report and each failure to report as required under 49 U.S.C. § 30166, including a regulation, requirement, request or order issued thereunder, for which protection is sought and (b) the specific predicate under which the improper or omitted report should have been provided; and (2) the complete and correct information that was required to be submitted but was improperly submitted or was not previously submitted, including relevant documents that were not previously submitted to NHTSA or, if the person cannot do so, provide a detailed description of that information and/or the content of those documents and the reason why the individual cannot provide them to NHTSA. *See* 49 U.S.C. § 30170(a)(2) *and* 49 CFR 578.7. *See also*, 66 FR 38380 (July 24, 2001) (safe harbor final rule) *and* 65 FR 81414 (Dec. 26, 2000) (safe harbor interim final rule).

Description of the Need for the Information and Use of the Information -- This information collection was mandated by Section 5 of the Transportation Recall Enhancement, Accountability, and Documentation Act, codified at 49 U.S.C. § 30170(a)(2). The information collected will provide NHTSA with information the agency should have received previously and will also promptly provide the agency with correct information to do its analyses, such as, for example, conducting tests or drawing conclusions about possible safety-related defects. NHTSA anticipates using this information to help it to accomplish its statutory assignment of identifying

safety-related defects in motor vehicles and motor vehicle equipment and, when appropriate, seeking safety recalls.

Description of the Likely Respondents, Including Estimated Number and Proposed

Frequency of Response to the Collection of Information -- This collection of information applies to any person who seeks a "safe harbor" from potential criminal liability for knowingly and willfully acting with the specific intention of misleading the Secretary by an act or omission that violates section 1001 of title 18 with respect to the reporting requirements of 49 U.S.C. § 30166, regarding a safety-related defect in motor vehicles or motor vehicle equipment that caused death or serious bodily injury to an individual. Thus, the collection of information applies to the manufacturers, and any officers or employees thereof, who respond or have a duty to respond to an information provision requirement pursuant to 49 U.S.C. § 30166 or a regulation, requirement, request or order issued thereunder.

We believe that there will be very few criminal prosecutions under section 30170, given its elements. Since the safe harbor related rule has been in place, the agency has not received any reports. Accordingly, it is not likely to be a substantial motivating force for a submission of a proper report. We estimate that no more than one such person a year would invoke this new collection of information, and we do not anticipate receiving more than one report a year from any particular person.

Estimate of the Total Annual Reporting and Recordkeeping Burdens Resulting from the

Collection of Information -- 2 hours.

As stated before, we estimate that no more than one person a year would be subject to this collection of information. Incrementally, we estimate that on average it will take no longer than two hours for a person to compile and submit the information we are requiring to be

reported. Therefore, the total burden hours on the public per year is estimated to be a maximum of two hours.

Since nothing in the rule requires those persons who submit reports pursuant to this rule to keep copies of any records or reports submitted to us, recordkeeping costs imposed would be zero hours and zero costs.

Authority: 44 U.S.C. § 3506; delegation of authority at 49 CFR 1.95.

Issued on: April 11, 2013

O. Kevin Vincent
Chief Counsel

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